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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER NUMBER
	0922

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

NOTICE OF ALLOWABILITY

*the*  
claims being allowable, PROSECUTION ON THE MERITS IS CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

- This communication is responsive to *papers filed November 04, 2003*.  
 The allowed claim is *claim 1 (the claim)*.  
 The drawings filed on *November 04, 2003* are acceptable.

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.  
 Applicant MUST submit NEW FORMAL DRAWINGS  
 because the originally filed drawings were declared by applicant to be informal.  
 including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. \_\_\_\_\_.  
 including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.  
 including changes required by the attached Examiner's Amendment/Comment.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

- Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

- Notice of References Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152  
 Interview Summary, PTO-413  
 Examiner's Amendment/Comment  
 Examiner's Comment Regarding Requirement for Deposit of Biological Material  
 Examiner's Statement of Reasons for Allowance

HOWARD J. LOCKER  
EXAMINER  
GROUP ART UNIT 2661

10/700232  
PTO-37 (Rev. 10/95)

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The following changes were authorized by the applicant, Mr. Harvey D. Davidson, in the course of a telephonic interview with Examiner Locker on September 15, 2004.

### IN THE TITLE

The title has been amended to read --Floribunda Rose Plant Named 'HADCUP'--.

Page 3, line 2, "Rosa hybrida" has been changed to --*Rosa hybrida*--.

### IN THE SPECIFICATION

Page 3, line 4 under "SPECIFICATION" the following sentence has been added after the end of the existing sentence: --The cultivar name of this plant is designated as 'HADCUP'. It is being marketed under the commercial name of 'SMOOTH BUTTERCUP'.--.

Page 4, lines 11-12, the recitation "U.S. Plant Patent - None." has been changed to read --Not patented--.

Page 4, line 13, "Seedling" has been changed to --Unnamed seedling--.

Page 4, line 14, "Hybrid Tea" has been changed to --Floribunda--.

Page 5, lines 4, 5, 7, 11, 17, and 19, "Yel." has been changed to -Yellow--.

Page 5, line 9, the term -as—has been added prior to "peduncle".

Page 5, last line, the language "Holds petals well, drops cleanly" has been changed to read -Petals hold well, drop cleanly--.

Page 6, line 2 has been changed to read as follows:

--(8) Lasting quality: On the plant about 10-12 days; as cut flower about 6-8 days.—.

Page 6, lines 8 and 14, "Yel." has been changed to -Yellow--.

Page 6, line 9, "Same as (4)" has been changed to -Close to Yellow Orange Group 15A--.

Page 6, line 10, "Same as (4)" has been changed to -Close to Yellow Orange Group 15A--.

Page 6, line 21, "cm. cm." has been changed to -cm.--.

Page 7, lines 1, 2, 3, 4, 15 and 16, "Yel." has been changed to -Yellow--.

Page 7, line 7, "Unremarable serration" has been changed to -Serrated--.

### **IN THE CLAIM**

The claim has been amended to read as follows:

--A new and distinct rose cultivar of the Floribunda class, characterized in particular by prickles being absent from any stems, deep butter yellow colored flowers borne in clusters of up to 14 flowers, and rapid rebloom cycle, substantially as herein shown and described--.

### **IN THE ABSTRACT**

In line 1, "Florabunda" has been changed to --Floribunda--.

The last two lines of the abstract "The generic name...of 'SMOOTH BUTTERCUP'" have been deleted (such were placed in the body of the specification (see above)).

2. Any inquiry concerning this communication from the examiner should be directed to Examiner Howard J. Locker whose telephone number is 571-272-0980, and whose normal work hours are Monday through Thursday, from 6:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Andrew Wang, can be reached at 571-272-0811.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 1600 receptionist whose telephone number is 571-272-1600.

### **TELECOPY/FACSIMILE TRANSMISSION**

Papers related to this application may be submitted to TC 1600 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The official fax number for TC 1600 is: 703-872-9306.

Howard J. Locker/hjl  
September 22, 2004

  
HOWARD J. LOCKER  
EXAMINER  
GROUP ART UNIT 1661